

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

MICHAEL ASHBY,

Petitioner,

v.

ALICE PAYNE,

Respondent.

Case No. C03-5385RJB

ORDER DENYING PLAINTIFF'S  
MOTION FOR LEGAL MATERIAL  
AS MOOT

This Habeas Corpus petition, filed pursuant to 28 U.S.C. 2254, has been referred to the undersigned Magistrate Judge. Before the court is petitioner's motion asking that his legal materials be delivered to him (Dkt. # 69). Respondents has replied and indicates Mr. Ashby received the legal materials in question on December 4, 2006 (Dkt. # 70). Respondent notes Mr. Ashby claims his typewriter is now broken, but that typewriters are available in the law library for preparation of pleadings.

The request to order the Department to provide Mr. Ashby with his legal material is denied as moot.

The clerk is directed to send copies of this order to petitioner and counsel for respondent.

DATED this 22, day of December, 2006.

/S/ J. Kelley Arnold

J. Kelley Arnold

United States Magistrate Judge